

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE**

In re:	)	Chapter 11
	)	Case No.: 01-01139(JKF)
W.R. GRACE & CO., et al.,	)	
	)	Jointly Administered
Debtors.	)	
	)	

**LIMITED OBJECTION OF BMW CONSTRUCTORS, INC. TO DISCLOSURE  
STATEMENT FOR DEBTORS' PLAN OF REORGANIZATION**

BMW Constructors, Inc. (hereinafter "BMW") by and through its undersigned counsel, hereby files a Limited Objection (the "Limited Objection") to the Disclosure Statement for Debtors' Plan of Reorganization (the "Disclosure Statement"). In support of its Limited Objection, BMW represents as follows:

**Background**

1. Debtors each filed a voluntary petition for relief under Chapter 11 of the Bankruptcy Code on April 2, 2001 (the "Petition Date"). Debtors' Chapter 11 cases were consolidated for administrative purposes. Debtors continue to operate their businesses and manage their properties as Debtors in possession pursuant to Sections 1107(a) and 108 of the Bankruptcy Code.

2. Debtors are in the business of operating retail home improvement centers. Prior to the Petition Date, BMW entered into an agreement with Debtors where BMW agreed to supply labor and materials for improvements at one of the Debtors' retail stores located at 5215 Kennedy Avenue, East Chicago, Indiana. The property where said improvements were made is owned by E I Du Pont De Nemours & Co. (the "Dupont Property").

3. On May 29, 2001, BMW recorded a Notice of Intention to Hold Mechanic's Lien (hereinafter "Notice of Intention") with the Lake County Recorder in Indiana. The Notice of Intention was serve on E I Du Pont De Nemours & Co., at is Wilmington, Philadelphia and East Chicago addresses.

4. The Notice of Intention was filed pursuant to Indiana Code Section 32-8-3-3, which provides in pertinent part: "a person who wishes to acquire a [mechanic's] lien upon any property, whether the claim is due or not, shall file in the recorder's office of the county at any time within ninety (90) days after performing labor or furnishing materials."

5. On or about May 28, 2002, BMW filed a Motion for Entry of An Order Under Section 362 of the Bankruptcy Code granting BMW Constructors, Inc., Relief from the Automatic Stay (the "Motion"). Pursuant to the Motion, BMW requested the court grant relief from the stay so that BMW could maintain and enforce its Mechanic's Lien as set forth in the Motion and to allow BMW to foreclose on the Debtors' interest in the property.

6. On October 26, 2002, this Court entered a Stipulation and Agreed Order Resolving the Motion of BMW Constructors, Inc. (the "Stipulation"). A copy of the Stipulation is attached hereto as Exhibit "A".

7. On November 13, 2004 Debtors filed the Disclosure Statement for Debtors Plan. Pursuant to paragraph 4.3.1.2, class two secured claims "shall be paid the allowed amount of its allowed secured claim.... The Debtors estimate that there are no allowed secured claims as of the effective date."

**Basis for Objection**

8. Pursuant to paragraph two of the Stipulation, “BMW shall be allowed a secured claim in the amount of \$90,022.17, subject only to BMW filing a Proof of Claim in such amount.”

9. On March 10, 2003, BMW filed a Proof of Claim in the amount of \$90,022.17. A copy of BMW’s Proof of Claim is attached hereto as Exhibit “B”.

WHEREFORE, BMW files this Limited Objection and respectfully requests that the Court deny Debtors request for a approval of the Disclosure Statement to the extent that Debtors represent there are no allowed secured claim as of the effective date. As set forth above, BMW has been deemed to have an allowed Claim in the amount of \$90,022.17.

FOX ROTHSCHILD LLP

/s/ L. Jason Cornell, Esquire

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Dated: December 20, 2004

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that one (1) copy of the Limited Objection of BMW Constructors, Inc. to Disclosure Statement for Debtors' Plan of Reorganization were served this 20<sup>th</sup> day of December, 2004 upon the following individuals in the manner specified:

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